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## RECENT REPORTS ON STATE AND LOCAL TAXATION

It has been my custom to give at intervals of every few years a survey of the reports of special state and local commissions on taxation.<sup>1</sup> In the four years that have elapsed since the last survey, a far more voluminous batch of literature on the subject has appeared. While we find reports of special state tax commissions almost every year, from 1901 to 1907, it was only in 1902 and 1907 that as many as three appeared. In 1908, however, there were no less than six such reports, and in each of the following years three more. So that in the four-year period under review we find fifteen reports as against twelve in the preceding seven-year period.

In addition to this unexampled activity we find, as a new feature, the reports of permanent tax commissions. Permanent tax commissions or commissioners existed indeed before this period in a few states, but for the most part their powers were slight and their reports largely formal in character. During the past half-decade, however, not only have permanent commissions of a new type been created, but several of the old commissions have been granted increased powers, with the result that their reports often contain noteworthy discussions.

### *Municipal Reports*

Before taking up the state reports a word may be said about municipal taxation. The published discussions have been confined to New York, Baltimore and Pittsburg. In New York the Advisory Commission on Taxation and Finance, which began its labors in 1905, and some of whose earlier reports were mentioned in the preceding survey,<sup>2</sup> issued three additional reports: on the city debt, on the system of accounts and statistics, and on the collection of arrears of the real estate tax.<sup>3</sup>

<sup>1</sup> Cf. the articles and reviews in the *Political Science Quarterly* for December, 1900; March, 1902; December, 1904; and June, 1907. Some of these reports are also discussed in *A Summary of the Reports of Special State Tax Commissions*, published by the Civic Federation of Chicago, in December, 1907.

<sup>2</sup> *Political Science Quarterly*, vol. xxii, p. 299.

<sup>3</sup> *Advisory Commission on Taxation and Finance. Report on the City Debt in its Relation to the Constitutional Limit of Indebtedness. Containing a Proposed Amendment to Section 10 of Article VIII of the State Constitution*, April, 1907, pp. 14. — *Report on the System of Accounts and Statistics of the City of New York*, June, 1907, pp. 25. — *Report of Committee on Taxation, and Revenue on Collection of Arrears of Real Estate Taxes and Assessments*, Dec., 1907, pp. 33.

It was found impossible, on account of New York's enormous debt, to proceed with the rapid transit schemes, as the constitution limited the debt to ten per cent of the assessed valuation of real estate. A considerable part of the debt was, however, only nominal, as the income from water rates, dock rents and subway leases were more than sufficient to pay the interest. The Commission therefore proposed a constitutional amendment which, while exempting from the terms of the limitation bonds issued for self-supporting enterprises, would provide a nearly automatic scheme so that, should such an enterprise ever become non-supporting, the bonds issued to defray its cost would immediately be counted in estimating the debt. The report on the collection of arrears called attention to the hopeless inadequacy of existing methods and suggested as a remedy the creation of tax liens. That is to say, it was proposed that when taxes or assessments are three years in arrears, or water rents four years, the lien of all arrears should be sold at auction to the person who would bid the lowest rate of interest, not exceeding twelve per cent. The city thereupon would convey to the purchaser the tax lien, payable in three years, and would guarantee its validity. Transfers of tax liens were to be registered in the proper office and provide that the whole of the principal sum which the transfer of tax lien was given to secure should become due at the option of the owner, without default in the payment of interest for thirty days. Any person having an interest in the property affected by a tax lien might discharge it before maturity, on giving thirty days' notice, and upon payment of the principal with interest. In this way the tax liens would become readily salable, the city would no longer be kept out of the use of its proper income, and the trouble and expense of collection would be shifted from the city to private parties. The report on statistics and accounts was not so far-reaching, but some of the suggestions were taken up independently by the Bureau of Municipal Research, which has since then succeeded in revolutionizing the budgetary procedure and the city's method of accounting. In October 1908 the Advisory Commission made its final report,<sup>4</sup> in which it recounted what had been accomplished.

One of the reports, it will be remembered, contained a recommendation to abandon the remaining vestiges of the personal property tax in New York City. Mayor Gaynor had no sooner

<sup>4</sup> *Advisory Commission and Finance. Final Report*, October, 1908, pp. 161.

assumed office than he espoused the scheme; and this led to an investigation by a committee of the Chamber of Commerce,<sup>5</sup> which reported "that the assessment and collection of personal taxes under the General Property Tax Law is troublesome and expensive, that the revenue is small comparatively, and that the exemption of these remaining subjects, while affording grateful relief alike to all classes and taxpayers, would not sensibly increase the burden of taxation in other directions." The Committee felt constrained, however, to oppose the law on the ground that it ought to be applied to the state as a whole. What they feared was a resulting increase in the system of so-called indirect taxes, or special levies. In a valuable appendix we find a memorandum on the history and present status of the law of New York regarding personal taxation.

While the taxation of personal property in New York has almost reached the vanishing point, the situation in Baltimore is slightly different. An Advisory Committee, of which Professor Hollander was chairman, was created in 1907.<sup>6</sup> The conditions which led to its appointment were declared to be the urgent need for increased expenditures, the burdensome character of the direct property tax, and the inelasticity in the other sources of revenue. The Committee recommended that additional revenues be secured by an increase in the liquor licenses, and by the taxation of the street franchises of public service corporations. They also suggested an increase in the powers and the efficiency of the Appeal Tax Court, the body charged with the administration of the property tax, so as to secure a continuous assessment of real estate "without the spasm and disturbance of irregular general reassessments." The most interesting part of the report is that which deals with personal property. The so-called Baltimore plan, as is well known, is the scheme whereby certain securities—namely, every kind of bond or certificate of indebtedness, and every kind of corporate share other than those of Maryland companies—are taxed at a flat rate of three mills. The adoption of this plan resulted in the increase of the assessments from about six millions

<sup>5</sup> *Report of the Committee on State and Municipal Taxation of the Chamber of Commerce on the Bill to amend Section 4 of the Tax Law in Relation to the Exemption of Personal Property from Taxation*. May, 1910. This report is also printed in the *Monthly Bulletin*, vol. ii, no. 2 of the Chamber of Commerce, pp. 20-32.

<sup>6</sup> *Report of the Advisory Committee on Taxation and Revenue submitted to the Mayor of Baltimore*. Baltimore, 1908, pp. 152.

in 1896 to over one hundred and fifty millions in 1907. This remarkable showing, however, by no means blinded the Commission to the defects that still inhere in the system, for in 1907, in a population of 550,000 only 2,281 individuals were returned as owning securities. The Commission tell us:

To accept the testimony of the city's tax books, and believe that the entire individual ownership of such forms of wealth is concentrated in 2,281 persons, is an impossible strain upon even the most optimistic credulity. . . . . The fact . . . . . can only have one possible explanation to any reasonable mind, and that is that the existing methods of assessment fail to secure an thing like a thorough return for purposes of taxation of such forms of wealth.

On the other hand, the tax on tangible personalty, primarily household effects and mercantile stocks, worked far more badly. The Committee inform us, with a certain naïveté, that "Few citizens of Baltimore will be prepared to learn that the net taxable basis of tangible personal property is actually less in 1908 than it was in 1898." In the same way we are told that the net assessment of shares of Maryland corporations owned in Baltimore fell from forty-one millions in 1900 to thirty-six millions in 1908. The Committee therefore advocate the creation of a State Tax Commissioner with concentrated responsibility, and a better organization of the Appeal Tax Court. They take pains, however, to disclaim any "endeavor to drag the ponds or to go through Baltimore with a fine-tooth comb," for "such a procedure is manifestly utopian in result, and the mere effort to realize it would mean a costly, offensive inquisition that would be repudiated after the briefest trial." While the state tax commission was not appointed, the other important recommendations of the Committee were adopted, such as the increased taxation of liquor licenses, the systematic reassessment of real and personal property, and the organization of the Appeal Tax Court on a professional basis. As a result, the assessments of personalty have slightly increased, but the increases have been relatively far less than in the case of real estate, and the problem is almost as far from a satisfactory solution as it was before the Committee reported.

The Pittsburg report deserves only a word,<sup>7</sup> as it concerns itself with the single question of classification of real estate. Pittsburg, as is well known, has retained the primitive classifica-

<sup>7</sup> *Tax Property on Full Value. Recommendation for Legislation to abolish Present Classification of Property for Taxation Purposes. Report of Committee on Real Estate and Taxation, approved by Chamber of Commerce of Pittsburg, November 10, 1910. Pittsburg, 1910, pp. 7.*

tion into city, rural, and agricultural property. The Committee of 1910 find that this discrimination penalizes the business interests and the small householder, and that it encourages speculation. They accordingly oppose the whole system and recommend the introduction of a bill to abolish the present classification, and to provide for a uniform valuation as in other American cities.

*Reports of State Special Tax Commissions*

During 1908 no less than six special state tax commissions published their reports. The first in order was that of Massachusetts.<sup>8</sup> The report of the Committee of 1906<sup>9</sup> had been so inadequate that the new Commission was given a broad scope. The Commission find that the general property tax grossly violates the constitutional injunction that taxation should be "proportional and reasonable." Concluding that the existing distribution of the corporate franchise tax is both illogical and unfair, they recommend that the railroad, telephone and telegraph companies tax be retained entirely by the commonwealth, and that the street railway commutation tax of 1906 go entirely to the localities; that in the case of manufacturing corporations, a compromise be adopted, whereby the state retain the portion of the tax represented by stock owned outside the state, but that one half of the remainder only be distributed to the places where the stockholders reside, the other half to be given to the localities where the business is conducted.

The chief concern of the Commission, however, was with the personal property tax. Statistics are presented to show the breakdown of this system in Massachusetts and elsewhere, and to it is ascribed the concentration of personal property in a very small number of towns. The Commission conclude that until the methods of taxing intangible personalty are changed, "our tax laws will remain vitally and fundamentally defective." Their proposed remedy is the adoption of the Pennsylvania or Baltimore plan of taxing securities at a low flat rate. Conceding that, except in the case of mortgages and personal property held in trust, there is more or less evasion, they add: "But even so, a far greater proportion of such property is reached than in other states, and the persons who are taxed pay a reasonable rate, which does not

<sup>8</sup> *Report of the Commission on Taxation to investigate the Subject of Taxation and to codify, revise and amend the Laws relating thereto.* Boston, 1908. pp. 234.

<sup>9</sup> Reviewed in *Political Science Quarterly*, vol. xxii, p. 310.

produce material hardship. The tax is not looked upon as odious or confiscatory, and yields a substantial revenue." Accordingly they recommend a constitutional amendment to permit classification, and also urge an increase in the powers of the state tax commissioner over local assessors.

The Ohio Commission reported at about the same time.<sup>10</sup> They present first a clear outline of the existing system, including the Nichols, the Willis, and the Cole laws applying to corporations. The chief inequalities which they discuss in detail are those between owners of real and personal property; among owners of real estate; among owners of personal property; between individuals and corporations; and among corporations. They conclude:

That the general property tax is a failure for purposes either of revenue or equality; that more than one half of the total wealth of the state in intangible property alone, escapes taxation; that of intangible property, under ten per cent, perhaps not even five per cent, is listed on the duplicates; . . . . . that the intermingling of state and local sources of revenue produces conflict between the counties, concealment of public expenditures and a tendency to extravagance; that the methods of taxing corporations are antiquated and cumbersome; . . . . . and finally, that the chief sufferer from all these ills is the citizen whose possessions are so clearly visible that no defense or evasion can secure their escape.

Their chief recommendations are: a constitutional amendment to permit classification; the establishment of a state tax board with considerable powers; a more frequent appraisement of real estate; the separation of state and local revenues; and authority to the local communities to secure publicity in taxation. The report of the Ohio Commission is able, clearcut and succinct.

A few months later followed the short but comprehensive report of the Louisiana Commission.<sup>11</sup> They were forced, we are told, to the conclusion that "a general property tax system, based on a constitutional requirement of equality and uniformity, is vicious and leads to the grossest inequalities and injustice," and that "the extent of this injustice and inequality in Louisiana is startling." After adding a long array of figures which "tell a disheartening story," they hold that the constitutional provisions requiring the uniform general property tax "are a delusion" and "that this open and flagrant violation of law must have a most pernicious effect."

<sup>10</sup> *Report of the Honorary Commission appointed by the Governor to investigate the Tax System of Ohio and recommend Improvements therein.* Columbus, 1908. This report appeared in two versions, one of 62 pp., including a letter of the Governor, and one of 64 pp. without this letter.

<sup>11</sup> *Report of the Tax Commission of Louisiana.* Baton Rouge, 1908, pp. 36.

They therefore recommend a constitutional amendment which will permit a departure from the uniform general property tax; the separation of state from local taxation, which they consider a "fundamental principle"; the creation of a permanent tax commission with powers; the exemption of mortgages; the imposition of a true inheritance tax; the taxation of salt, sulphur, petroleum and gas mines, according to gross product; the separate assessment of land and improvements; a corporate franchise tax; and a cotton-future stamp tax. Finally, they oppose the existing license taxes. "An occupation tax on a praiseworthy pursuit is vicious in principle. No man ought to be made to pay for the mere privilege of earning a living. There is no form of tax which provokes such a flood of perjury as accompanies the levy and collection of these taxes." Three concurring reports are made by individual members; one on home rule in taxation; another on the taxation of mortgages; and a third on the necessity of the constitutional amendment. It would be difficult to find in any other recent report so much valuable information packed into so little compass.

Toward the end of the year, and almost simultaneously, appeared the reports of three more New England states. The Vermont report<sup>12</sup> begins by asserting "undoubtedly there is in the state a widespread belief that there is something radically wrong with our present system of taxation." After presenting a mass of statistics they conclude that "the administrative provisions of our present tax law are largely ignored and evaded by both the listers and taxpayers." They declare, however, that any radical change in the system should be attempted only after a more thorough and exhaustive investigation of the conditions in the neighboring states than they have been able to make. Their chief recommendations comprise: a tax commission with centralized control, for "taxation can never be equal in this state under the present system of assessment by local boards of listers, with nothing but local interests and bias to control them"; the separate appraisal of land and buildings; the abolition of the power to offset debts; a direct inheritance tax; the abolition of the distinction in the treatment of shares of domestic and foreign corporations; and the reduction of the savings bank tax, on the ground that it is "not according to ability, but according to vulnerability." One half of the Commission also recommend the adoption of the

<sup>12</sup> *Report of the Commission on Taxation of the State of Vermont*. Montpelier, 1908, pp. 115.



Baltimore plan, believing that there is in Vermont no constitutional objection to its adoption. A minority of two object to the flat rate plan, and recommend in five lines a graduated income tax.

The Maine Commission<sup>13</sup> also tell us that all compulsory listing laws are a failure. They find that "it is not necessarily just and equitable that all classes of property shall be taxed in the same manner and all pay the same rate." They consider the question of separation of state and local revenues, but conclude that, notwithstanding its advantages, "to raise all our revenue by taxing franchises would tend to extravagant legislation." Recommending the continuance of a direct state tax, although only at half rates, they propose that the tax should hereafter be apportioned (not assessed) on the basis of respective land values. They prefer a taxation of corporations on the ad valorem rather than the earnings basis; and suggest an inheritance tax, a reduction of the bank tax, and an abolition of the retaliatory provisions in the insurance taxes. They welcome the adoption of the Baltimore plan for the taxation of mortgages, and warmly espouse the creation of a permanent tax commission. Finally, they pay some attention to the legal problems connected with the assessment of wild lands and refuse to recommend a stumpage tax on timber lands.

The New Hampshire report consists of two bulky volumes—the report proper and an appendix, which comprises all the tax laws from 1641 to the present, as well as the laws and constitutional provisions now in force.<sup>14</sup> The Commission point out that the New Hampshire system differs from that in other states in that only such property is taxable as is expressly enumerated. But that does not seem to make the situation any better. They tell us that "where one person's property is assessed at 20 per cent, and another person's at 250 per cent, of the true value in the same locality, the burdens of taxation are not equally distributed": moreover, "virtually no regard whatever is paid to the law requiring sworn inventories to be returned to the assessors." Their language is not always courteous, as when they quote an ex-governor of West Virginia as asserting "that the tax laws of Ohio are the most imbecile and jackassical of any in the country." They also refer to the "ostrichlike" method of Iowa and Illinois of as-

<sup>13</sup> *Report of the Maine Tax Commission*. Waterville, 1908, pp. 91.

<sup>14</sup> *Report of New Hampshire Tax Commission of 1908*. Concord, 1908, pp. 326. *Appendix to Report of Tax Commission of 1908. Taxation in New Hampshire*. Concord, 1908, pp. 300.

sessing property at one fourth to one fifth of true value. The Commission consider it "a needless waste of time to discuss at length the escape of intangible personalty," but they do not like the Baltimore plan because "in spite of the temptation to be honest held out to the citizens of Maryland, a good proportion of the intangible property taxed is a figment of the assessors. If they are to guess at all, it might as well be for the larger rate as for the smaller. The same opportunities for evasion and doomage exist there as elsewhere."

The conclusions, however, are definite. The Commission recommend the separation of state and local revenues, the state to keep three fourths of the railway, bank and insurance taxes, in order to obviate the necessity of any state tax. They also advocate the complete exemption of money and credits, as in Washington. "The people will not pay and will not choose assessors who will enforce the law. The doors of evasion cannot be closed by legislative enactments." They propose a direct inheritance tax, even though a constitutional amendment may be necessary; take exception to the Massachusetts scheme of taxing business corporations; and recommend a tax based upon a capitalization of net income. The poll tax ought to be reformed by being made a fixed tax instead of being treated as a part of the property tax. Finally, a strong argument is made for a permanent tax commission. A separate report on railway taxation is written by one of the commissioners, discussing in detail the various methods utilized in the United States.

It will perhaps not be entirely amiss to join to the reports of the preceding states that of the Hawaii Commission.<sup>15</sup> The problems of Hawaii are, of course, very different from those existing on the continent, for as the Commission point out, Hawaii is an agricultural country. "Industrial life is not complicated as yet; and it is not easy to evade taxes on personalty nor difficult to find the property itself." Moreover, securities, mortgages, and promissory notes are not taxable, and money is taxed only to the banks. The real problems of Hawaii are therefore those of the administration of the real estate tax, of the so-called "enterprise-for-profit" tax, and of the income tax. The Commission recommend an assessment of real estate for three years instead of an annual assessment, as at present; and the abolition of the eight-year rental

<sup>15</sup> *Report of the Tax Commission to the Governor of Hawaii, June 30, 1908.* Honolulu, 1908, pp. 87.

system, whereby the selling value of houses is estimated at eight times their actual rental value. On the other hand, they do not recommend the abolition of the tax on growing crops, nor of the enterprise-for-profits tax. A minority report, however, objects to the continuance of the latter as long as the income tax remains in force. Finally the Commission suggest certain amendments in the inheritance tax and uphold the poll tax. Taking it all in all, the report is most interesting as showing the influence of economic environment upon fiscal systems.

In the following year, 1909, we find three reports. The Delaware Commission<sup>16</sup> call attention to the fact that the state has a system of separation in force. Local revenues are derived from property and poll taxes while the state treasury is supported chiefly by corporation, franchise and business or occupation taxes. But the dissatisfaction is still pronounced. In the first place, the state business and occupation taxes are entirely too crude. The Commission suggest in their stead a consideration of the Ontario business assessments. In the case of railways the Commission point out that none of the existing laws imposing taxes on passengers, net earnings, stock, etc., is enforced, but that the taxes are commuted from year to year. The Commission, albeit somewhat doubtfully, recommend a continuance of the commutation plan, although based on a better assessment. They also suggest an inheritance tax, an increase of the license tax, and the securing of an income from the oyster beds. In the matter of local taxation they refrain from any recommendations. In theory they believe the fairest tax would be that upon incomes, but they tell us that in practice the attempt to discover true income has raised enormous difficulties. Finally, they propose the creation of a permanent tax board. A series of appendices gives a history of taxation in Delaware and a survey of the existing laws.

The Kentucky report appeared at the end of the year.<sup>17</sup> The Commission was divided into two groups, one known as the Advisory Commission, to make recommendations, and the other the Tax Commission, to frame legislation. The Commission as a whole reported that the Kentucky system is inadequate for four reasons:

<sup>16</sup> *Report of State Revenue and Taxation Commission of the Joint Assembly of the State of Delaware*. January 5, 1909, Dover, pp. 83.

<sup>17</sup> *Tax Revision. State of Kentucky, Tax Commission, Advisory Commission*, Frankfort, 1909, pp. 45.

"First, it does not produce sufficient revenue; second, it places an undue portion of the public burden on some classes of property; third, it has resulted in driving and keeping from the state a large amount of capital; fourth, it produces evasion, dishonesty and perjury, encourages contempt for the law and lowers the moral standard of our people." The recommendations are a constitutional amendment permitting classification; a permanent tax commission with large powers; and the separation of state and local revenues. The report abounds in facts showing the breakdown of the property tax; the shifting of the mortgage tax upon the borrower; and the undue burdens borne by the farmers. An appendix presents a large number of quotations from other tax commissions and writers on finance, designed to support the vigorous conclusions of the Commission.

On a preceding page we called attention to the recommendations of the Massachusetts commission of 1908. The Supreme Court was asked whether the proposed three mill tax would be constitutional; and when they reported in the negative, the General Court agreed to a constitutional amendment to permit such classification. Thereupon a Special Commission was appointed to consider the question and the arguments on either side were summed up by Professor Bullock<sup>18</sup> and Mr. Matthews.<sup>19</sup> The Special Commission after considering these arguments made a report in December, 1909.<sup>20</sup> They stated that classification was recommended in order to introduce a satisfactory plan of taxing machinery for the promotion of manufacturing enterprises; in order to adopt a proper method of taxing various lands for the encouragement of timber culture; and in order to establish a more equitable, productive and enforcible system of taxing intangible personalty. After an examination of these arguments, the Commission conclude against the proposition. The evils of the present system, they think, have been exaggerated. "No evidence of the existence of widespread dissatisfaction and general demoralization has been produced."

<sup>18</sup> *Argument in Favor of the Proposed Constitutional Amendment permitting the General Court to classify Property for the purposes of Taxation.* By Charles J. Bullock for the Taxation Committee. Boston Chamber of Commerce. October 26, 1909, pp. 58.

<sup>19</sup> *The Proposed Amendment of the State Constitution. Argument of the Remonstrants.* By Nathan Matthews, Boston, 1909.

<sup>20</sup> *Report of the Commission appointed under the Provisions of Chapter 142 of the Resolves of 1909, to investigate the Laws relating to Taxation.* Boston, 1909, pp. 80.

They contend that "whatever the shortcomings of the present system may be, the evils likely to be produced by the proposed remedy would be far worse." These objections they sum up as follows: first, the three mill tax would cause economic disturbance by unsettling values and encouraging capital to seek foreign investment; second, it would cause financial disturbance by reducing revenues; third, the power of classification might be used to introduce a multitude of special taxes with various rates, thus threatening the stability of values; fourth, the desire to secure legislative favor in the form of reduced taxation would produce constant agitation; fifth, the passage of the amendment would open the door to the enactment of unjust, discriminating measures, designed to penalize wealth. Appendices to the report contain provisions of the state constitutions referring to classification, and a synopsis of the recommendations made by all special Tax Commissions in Massachusetts. The report of the Commission was sufficient to kill the movement for classification.

The year 1910 opened with a report from another New England state. The Rhode Island Committee, like its predecessors, found conditions most unsatisfactory.<sup>21</sup> "The General Property Tax has proved ineffectual in producing revenue; unjust because it places the burden upon the weak and unwary and the conscientious, while it allows the shrewd and powerful to escape; inadvisable because it brings the law into disrepute and debases the morals of the community." After the usual figures to verify these conclusions, the Committee recommend the establishment of some form of effective state supervision; a classification of property with a low flat rate on certain forms of intangibles; a reform of the corporation tax law (Rhode Island being one of the few states which still cling to the primitive method of the general property tax as applied to corporations); the provision of a separate state revenue from corporations, and inheritances; and a separate assessment of land and improvements. Each of these points is worked out in detail with a wealth of figures, of quotations and a careful consideration of the arguments on the other side. The Committee, however, do not go so far as to advocate local option in taxation because they think that this virtually

<sup>21</sup> *State of Rhode Island and Providence Plantations. Report of the Joint Special Committee on the Taxation Laws of Rhode Island.* Providence, 1910, pp. 183.

means the adoption of the single tax system. In two valuable appendices are contained an account of the system of tax supervision in each state and territory, and a survey of the corporation tax in the most important states.

Later on in the year appeared the important report of the California Commission.<sup>22</sup> This Commission was originally constituted in 1905, made its report in 1906, and prepared a constitutional amendment which was defeated in 1908. The Commission was then reconstituted, with Professor Plehn as secretary, and proceeded to prepare a new amendment. This provided for a complete separation of state and local revenues, the state revenues to be derived from taxes on the gross receipts of corporations, together with taxes on banks, and franchises in general. The legislature was permitted to change the rates as fixed in the amendment only by a three-fourths vote, and recourse was to be taken to a general property tax only in case these revenues might prove to be inadequate. The Commission undertook to ascertain in detail how this plan would work, and entered into correspondence with every assessor in the state. The result was an accurate statement of what each county would gain or lose. On the strength of these statistics the Commission again called attention to the defects of the general property tax, the real meaning of separation, and the objects of the new scheme. Incidentally they pointed out that the system of state equalization makes matters worse rather than better. In a separate section a series of telling quotations from various authorities is introduced. It may be added that the California Tax Commission made out so good a case that the amendment was adopted in the autumn of 1910.

At the close of 1910 and the beginning of 1911 the Commissions of Delaware and Rhode Island, whose first reports have been mentioned above, made supplemental reports for the use of the new legislatures. The Delaware Commission<sup>23</sup> content themselves with repeating most of their previous recommendations, but emphasize especially two points: first, that no satisfactory assessments of property can ever be made by local assessors elected by the people; and second, that it is highly inexpedient to revert to the discredited scheme of a direct state tax on general property.

<sup>22</sup> *Report of the Commission on Revenue and Taxation*. Sacramento, 1910, pp. 77.

<sup>23</sup> *Report of the Delaware State Revenue and Taxation Commission*. Dover, 1910, pp. 13.

The Rhode Island Committee<sup>24</sup> go more fully into certain of the questions discussed in the previous report. They call attention to the fact "that the general property tax under which Rhode Island operates stands today discredited even more conclusively than a year ago." The Committee had in the meantime investigated the practical workings of centralization in Wisconsin and Minnesota, and approve of it even more thoroughly than before. They discuss in detail the tax on corporate excess and conclude that "it is difficult to conceive of a more complete demonstration of the unfitness of our present system of taxation to adjust itself to conditions as they exist at the present time." A valuable appendix contains all the important changes in the tax laws of the various states during 1909 and 1910.

During the early weeks of 1911, finally, there appeared the reports of two tax commissions which not only complete the list of all outstanding commissions, except that of Virginia, but which are in some respects the most important of those noted in this paper. The Illinois Commission, appointed in 1909, was significant in counting among its members and assistants scholars like President James and Professors Merriam, Kinley and Fairlie. The report proper is a short one,<sup>25</sup> containing the findings and the recommendations. But the material on which these are based consists of two large volumes; one comprising an account of the Illinois system by Professor Fairlie,<sup>26</sup> and the other including a compilation of tax laws and decisions.<sup>27</sup>

Professor Fairlie's report is a veritable treatise on taxation, containing not only an historical sketch of tax legislation in Illinois, but a detailed account of the workings of the system in every particular. Especially noteworthy are the discussions of the undervaluation of real estate, the assessment of mortgages, the taxation of corporations, including an account of the Teachers'

<sup>24</sup> *Second Report of the Joint Special Committee on the Taxation Laws of the State of Rhode Island.* Providence, 1911, pp. 98.

<sup>25</sup> *Special Message of Charles S. Deneen, Governor, to the General Assembly, transmitting the Report of the Special Tax Commission.* Springfield, 1911, pp. 35.

<sup>26</sup> *A Report of the Taxation and Revenue System of Illinois.* By John A. Fairlie, Chief Clerk of the Commission. 1910, pp. 255.

<sup>27</sup> *Compilation of Tax Laws and Judicial Decisions of the State of Illinois, made by Albert M. Kales and Elmer M. Liessmann, under the direction of the Special Tax Commission.* Springfield, 1911, pp. 273.

Federation cases, and the subject of special taxes and fees. A chapter is devoted to a survey of the corporation tax in some six or eight typical states in this country. On the basis of the conclusions reached by Professor Fairlie, the Commission present its findings, which may be summed up in the statement that "the terms of the revenue law are unjust in principle and unenforceable in practice. The most deplorable consequence is the demoralizing influence of the hiatus between the written words of the law and its actual administration." The recommendations are a constitutional amendment permitting exceptions to the rule of uniformity; the appointment of a state tax commission with strong powers; and the substitution of county for local assessors.

Pennsylvania has long been in advance of the other states in matters of taxation, but the need of certain further improvements in the system made itself so manifest that when a committee of the legislature was appointed to consider the revision of the corporation laws, the duty of considering possible changes in the revenue system was added. After a short preliminary report in the autumn of 1910, a full report was issued early in 1911.<sup>28</sup> The Committee hold that the existing separation of taxation as between state and localities "is an admirable feature which should be preserved." After considering the question of increased revenue for the state and of equalization of the burdens, they recommend a direct inheritance tax with an amendment of the constitution to permit of graduation; a tax at a flat rate on anthracite coal; an extension of the mercantile license taxes, which are reported to work well; a repeal of the exemption of savings banks from the four mill tax; and a similar repeal of the exemption of manufacturing companies. On the question of a local tax on the real estate of public service corporations the Committee are undecided. On the question of personal property taxation, while conceding that there is considerable evasion of the law, they put themselves on record as against the proposal to return to a local personal property tax. They think that the Pennsylvania system of a flat rate on securities works well, and they incline to the opinion that an increased centralization in the assessment of the remaining forms

<sup>28</sup> Report. *The Joint Committee of the Senate and House of Representatives of the Commonwealth of Pennsylvania to consider and report upon a Revision of the Corporation and Revenue Laws of the Commonwealth to the Legislature*. Harrisburg, 1911, pp. 244. The *Preliminary Report* with the same title was 10 pp. in length.



of personalty may accomplish good results. On this point, however, they reserve their decision and ask to be continued in office to make a further study. Finally, they suggest the inauguration of a regular tax conference within the state.

### *Reports of Permanent Commissions*

In addition to the reports of the special tax commissions above reviewed, attention must now be called to the permanent commissions which, under one name or another, are now found in eighteen states. In a half-dozen of the eastern states, where the commissions are of longer standing, running back as far as two or three decades, the reports are chiefly formal in character, containing little but statistics, with but few comments. This is true, for instance, of Massachusetts<sup>29</sup> (created in 1890), of Maryland<sup>30</sup> (created in 1878), and of New Jersey<sup>31</sup> (created in 1884), which deal primarily with the corporation taxes. The peculiar situation in New Jersey, which has been referred to elsewhere,<sup>32</sup> is being handled by a special Commission on Railway Valuation, which is expected to report before long. In New York the last report of the Tax Commissioners<sup>33</sup> (created in 1896) deals primarily with the various theories underlying the assessment of franchises, and suggests greater uniformity in corporation assessments, as well as a further classification of personal property.

The last report of the Connecticut Tax Commissioner<sup>34</sup> (created in 1901), is less formal. In his previous biennial report the Tax Commissioner had called attention to the evils of the poll and military commutation taxes, and had recommended the separate valuation of land and buildings, an increase in the inheritance tax, with the adoption of provisions designed to avoid double taxation, and various changes in the insurance taxes. In the most recent re-

<sup>29</sup> *Report of the Tax Commissioner of the Commonwealth of Massachusetts*. Boston, 1910, pp. 593.

<sup>30</sup> *Report of the State Tax Commissioner of Maryland*. Hagerstown, 1910, pp. 227.

<sup>31</sup> *Twenty-sixth Annual Report of the State Board of Assessors of the State of New Jersey for the year 1909*. Trenton, 1910, 2 vols.

<sup>32</sup> *Political Science Quarterly*, vol. xxii, p. 322.

<sup>33</sup> *Annual Report of the State Board of Tax Commissioners of the State of New York*. Albany, 1910, pp. 321.

<sup>34</sup> *Report of the Tax Commissioner for Biennial Period 1909 and 1910, including the first Quadrennial Statement of Property exempted from Taxation*. Hartford, 1910, pp. 251.

port, while repeating some of these recommendations, he calls attention to the fact that the complete separation of state and local revenues has broken down in Connecticut, in so far as the special taxes no longer suffice for state purposes. The state property tax which had been suspended since 1890 was again authorized in 1909, although at a low rate. The Commissioner, however, calls attention to the evils of the old system, and recommends the adoption of the Oregon or apportionment-by-expenditure plan. He also recommends the creation of a State Board of Finance empowered to pass upon the appropriations and expenditures.

Largely formal in character also are the reports of the Indiana and North Carolina Commissions, which are likewise of fairly long standing. The Indiana report of 1907<sup>35</sup> characterizes the assessment of poll taxes as disgraceful, but calls especial attention to the good results that have ensued in the increase of personal property values from the annual conference conventions with all the county and township assessors. The 1908 report of the North Carolina Commission (reorganized in its present form in 1905)<sup>36</sup> recommends a constitutional amendment to permit segregation of revenue, and ascribes the failure of the inheritance tax to bad administrative methods. The report of 1910, however, contains nothing but statistics.

We now come to a group of more recently created commissions, primarily in the South, where we find more than merely formal reports. The West Virginia Commission was organized in 1904 as the result of the tax reform movement. The second report,<sup>37</sup> after an interesting discussion, recommends a constitutional amendment to permit of classification, a production tax on oil and gas, and various changes in the corporation and inheritance taxes. The third report for 1910, makes a more vigorous demand for constitutional revision. The greater part of the report is concerned with the question of classification. In Texas also the Tax Commissioner calls attention to "the antiquated system of the general property tax" and discusses at length the questions of

<sup>35</sup> *Biennial Report of the Indiana State Board of Tax Commissioners*. Indianapolis, 1907, pp. 118. *Proceedings of the Indiana State Board of Tax Commissioners*. Indianapolis, 1908, pp. 478.

<sup>36</sup> *Report of the Corporation Commission as a Board of State Tax Commissioners*. Raleigh, 1908, pp. 265.

<sup>37</sup> *Second Biennial Report of the State Tax Commissioner of West Virginia for the years 1907-1908*. Charleston, 1908, pp. 381.

separation and of centralization, both of which he approves.<sup>38</sup> Incidentally, he calls attention to the failure of the state intangible tax, first levied in 1907. In 1910 the growing dissatisfaction reflected itself in a report of the Business-Men's Association,<sup>39</sup> which declared that "our revenue system is rigid and stupid, and is not sufficiently elastic to meet changing conditions." Finally attention may be called to the Alabama Commission which was created in 1907 as an evolution out of the "Back Tax" Commission. The findings of this commission are noteworthy as being "conclusive on all her officials and as binding unless changed by a court of competent jurisdiction." In their report for 1909,<sup>40</sup> the Commission state that the result of the year's work has not been altogether satisfactory. In the next report, for 1910, they tell us that the progress has been more encouraging. As a matter of fact, however, the Commission seem not to have used their powers very effectively.

Next in order is to be noted the Michigan Board. In their report for 1908<sup>41</sup> they call attention to their efforts to improve the assessment of mortgages by investigation in the adjoining states. They sadly confess, however, that the evasion is still very great. They also discuss at some length the assessment of vessel property. In the sixth report, of 1911, they deal primarily with the subject of railroad taxation, and a separate paper by one of the commissioners calls attention to the fact that the "ingenious Cooley-Adams method does not entirely fill all the requirements of the case."

Another and more interesting group of reports comprises those of some of the Western and Northwestern states, where greater progress has been made in the direction of centralization of assessment. Of these perhaps the oldest is Wisconsin, created in 1905, whose biennial reports have always attracted considerable attention. The report of 1909<sup>42</sup> well maintains the reputation of the

<sup>38</sup> *Third Annual Report of the Tax Commissioner of the State of Texas for the year 1908*. Austin, 1908, pp. 105.

<sup>39</sup> *Tax Revision. Report of Committee on Taxation. Texas Commercial Secretaries and Business-Men's Association*. Fort Worth, 1910.

<sup>40</sup> *Report of the State Tax Commission of Alabama for the year ending September 30, 1909*. Montgomery, 1910, pp. 75.

<sup>41</sup> *Fifth Report of the Board of State Tax Commissioners*. Lansing, 1909, pp. 391.

<sup>42</sup> *Fourth Biennial Report of the Wisconsin Tax Commission to the Governor and Legislature*. Madison, 1909, pp. 177.

Commission. We are told that so far as the property tax is concerned, local assessments "did not improve," and "it is quite apparent that we are fast drifting away from the assessment of personal property and towards a tax on land only." The Commission declare that there can be no material reform in taxation methods until the election of assessors by the locality is abandoned, and they state frankly that the establishment of the tax commission and the creation of county supervisors of assessment have not proved a remedy. "Things are getting worse instead of better." They discuss the income tax, but are doubtful about its efficiency for state purposes. They call attention to the exemption of mortgages from taxation and recommend that the policy adopted in Wisconsin be extended to all intangible property. In the discussion of corporate taxation they advocate an extension of the unit rule. An appendix by one of the commissioners lays emphasis upon the failure of local self government, and the need of a constitutional amendment to secure further centralization in assessment.

In Minnesota the first report of the Commission, created in 1907, is noteworthy in that it contains comparatively few statistics and a great deal of discussion.<sup>43</sup> This is due largely to its chairman, Professor, now President, McVey. The report includes a comprehensive statement of the history and present methods of the Minnesota system as well as a summary of the work accomplished by the Commission. We find the usual facts and allegations about the inequalities of the tax system. Among the remedies considered, the Commission think that separation is not so effective as centralization. With reference to corporations a special chapter on railways concludes in favor of the gross earnings, rather than of the ad valorem, tax and holds that Wisconsin and Michigan have taken retrograde steps. Among other interesting discussions are those of the timber tax, the tax on iron ore lands, and on inheritances. The Commission voice their conviction "that the general property tax, as applied to personal property, can never be a success because fundamentally wrong."

In their second (1910) report, which is a volume of almost 500 pages, they revert to some of the earlier discussions. They frankly declare that the law requiring taxation of property at its full value "is a dead letter, a still-born statute, unenforced and unen-

<sup>43</sup> *First Biennial Report of the Minnesota Tax Commission to the Governor and Legislature of the State of Minnesota.* St. Paul, 1908, pp. 279.

forceable. Any attempt to comply with its provisions would be revolutionary." Separate chapters are devoted to almost every phase of taxation, including the income tax. The Commission conclude that "an income tax in Minnesota would not prove any more equitable or satisfactory than the present personal property tax." Among their many recommendations they lay emphasis upon a change in the basis of assessment from full value to 50 per cent, and upon the replacement of local by county assessors. Two interesting chapters on the cost of government and on municipal receipts and disbursements are contributed by Dr. R. H. Hess.

The Kansas Commission was appointed in 1907 and at the end of 1908 it made, as required by law, two separate reports,<sup>44</sup> one to the governor thirty days before the convening of the legislature, and one to the legislature on its opening. The report proper, to the governor, containing an account of what has been accomplished, gives interesting figures showing that the result of the Tax Commission has been to increase assessments about six-fold. Incidentally they ascertained that in a certain county assessments varied from 21½ to 76 per cent of the prices for which the property was sold during the same year. As contributing to the increase in assessments the Commission give credit to the conference conventions with the county assessors, the proceedings of which are published annually. In the report to the legislature containing recommendations, the Commission acknowledge the weakness of the general property tax but doubt whether present public sentiment in Kansas is quite ripe for a change. They take strong ground, however, in favor of classification, and look forward to a system of separation of state and local revenues. Taking it all in all, the report of the Kansas Commission is one of cheering progress.

The second biennial reports for 1911 are brief but equally good. The report to the governor summarizes the work done by the Commission; the report to the legislature calls attention to the fact that the legislature enacted the majority of its earlier recommendations but that there still remain for consideration the problems of separation and of classification. As to these the Commission make as yet no definite recommendations, although they show their favorable inclination. Finally they emphasize the

<sup>44</sup> *First Report to the Legislature by the Tax Commission, State of Kansas, January 12, 1909.* Topeka, 1908, 59 pp. *First Report of the Tax Commission State of Kansas.* Topeka, 1908, 357 pp.

great improvement in assessments that has taken place under the reform system. Kansas, like Indiana and a very few other states, publishes regularly the proceedings of its conference conventions with the local assessors.

Exceedingly advanced is the Washington Commission, which was created in 1905. Their first biennial report of 1907 made a large number of recommendations, most of which were adopted, with the exception of the constitutional amendment providing for classification. In the second report, for 1908, the Commission revert to their scheme of classification, as well as to that of separation, and maintain that opposition to the projects "can come only from those who confine themselves to theories, and take no account of the experience of other states and countries." In the third report<sup>45</sup> they emphasize the good results of the annual conventions with local assessors, and again lay stress upon the need for constitutional changes. "The best, fairest and most popular systems of taxation employed in the United States today are found in the states whose constitutions are either free from any provisions upon the subject of taxation whatever, or which are sufficiently liberal to permit legislative freedom in the enactment of laws."

We come finally to three commissions which have just made their first report. The Ohio report<sup>46</sup> is a little more than a report of progress. The Commission, however, lay emphasis on the fact that they are invested with the duty of supervising the new quadrennial appraisements of real estate, and devote a large portion of space to a consideration of the new corporation tax laws, calling attention to certain suggested changes. While the Arkansas Commission<sup>47</sup> is also invested with the duty of supervising and equalizing assessments and making recommendations, it is perhaps not to be wondered at that Arkansas is not up to the level of some of the states in the Northwest. Although the report contains abundant figures to show the shocking inequalities of the existing system, and is full of platitudes as to justice in taxation, the Commission believe that all that is needed will be new laws compelling

<sup>45</sup> *Third Biennial Report of the State Board of Tax Commissioners for the Period ending September 30, 1910.* Olympia, 1911, pp. 136.

<sup>46</sup> *First Annual Report of the Tax Commission of Ohio.* Columbus, 1911, pp. 102.

<sup>47</sup> *First Biennial Report of the Arkansas Tax Commission for the Period between May 8, 1909, and December 19, 1910.* Little Rock, 1911, pp. 85.

assessments at full values. This is practically the position taken some years ago by the Kansas Special Commission. Perhaps after a few years' experience fiscal opinion in Arkansas will approach that of Kansas, not to speak of the more progressive states.

The Oregon report is in some respects the most noteworthy of all.<sup>48</sup> The report informs us how the commission came to be created. It is well known that in 1901 Oregon provided for the abandonment of the apportionment of state taxation according to county valuations and adopted the apportionment-by-expenditure basis. The time when this should become effective was, however, successively postponed, first from 1905 to 1910, and then to 1912. In the meantime a method of apportionment by a fixed table of ratios, based on the assessed valuations of the five years preceding 1901, was enacted in 1907. In 1909 this was declared unconstitutional in the Yamhill County case, the principle of which substantially included the apportionment-by-expenditure scheme. It therefore became necessary to provide for an emergency measure, and the law of 1909 provided for a board of state tax commissioners to equalize county valuations and to assess public service corporations.

The state board did what they could and report that they have accomplished, at all events, some approximation to equality. But that they much prefer the other plan is evident from their recommendation of a constitutional amendment. Such an amendment, together with another amendment making possible the separation of state and local revenue and the classification of property, was defeated at the autumn election of 1910. The board held, however, "that this result is due entirely to the fact that their purpose and the wisdom of their enactment were not fully understood and appreciated." They therefore recommend a resubmission of the amendments. Especial attention is called to the adoption by a narrow majority of the new constitutional amendment which was urged not by the board but by the single taxers, who made a remarkable campaign and who spread broadcast thousands of copies of a pamphlet published under the auspices of the Joseph Fels Fund.<sup>49</sup> The board inform us that "this measure appeared on the ballot under an attractive title and later discussion discloses that its purpose was not fully understood." They object to it

<sup>48</sup> *First Biennial Report of the Board of State Tax Commissioners to the Legislative Assembly of the State of Oregon*. Salem, 1911, pp. 136.

<sup>49</sup> *Peoples' Power and Public Taxation*. Pp. 128.

first, because it deprives the legislature of the right to enact laws regulating taxation throughout the state; and second, because the so-called "local option" may lead to grave disorder. The board also recommend a development of the inheritance tax, the adoption of the New York system of mortgage registration tax, and the extension of the new system to certain other corporations. In view of the interesting and peculiar situation in Oregon, the report should receive wide attention.

### *Conclusions*

From the above survey several facts stand out prominently. In the first place, the dissatisfaction with the general property tax and the recognition of the evils connected with the assessment of personalty, have now become well-nigh universal. Whereas formerly they appeared in only a few states, they are now expressed by every one of the special State Tax Commissions without exception, and by almost all the permanent Tax Commissions. Since a recognition of the evils to be overcome is the first condition of progress, this may be considered a substantial advance.

In the second place, there is a growing recognition of the weakness of the local assessment of property, whether real or personal. What Sidney Webb has recently called the "American anarchy of local autonomy" is slowly being recognized by the administrative officials themselves. Nothing, perhaps, has been more cheering during the last few years than the progress of centralization of assessment and the creation of permanent commissions designed to cope with just this evil. This movement has only just begun, and from its continuance much may be expected in the future.

In the third place, there has been a great spread of the idea of the separation of state and local revenues. In most of the reports we find a recommendation of its advisability, and in some states, like California, the recommendations have been actually enacted into law. The discussion, however, has not yet proceeded far enough to show some of the limitations, or rather the conditions of the reform, and the movement away from complete separation which is reflected in the Connecticut report, and in the more recent discussions in Ohio and New York, deserves earnest attention.

Fourthly, the discussion of possible substitutes for the personal property tax has only just commenced. In several of the states classification is suggested, but in others it is not favored. Almost all the commissions in states with rigid constitutions, however,



are in favor of relaxing the constitutional prohibition. The Massachusetts report to the contrary is due largely to local considerations which would not be apt to prevail in the other states.

Finally, perhaps the most encouraging results of the last decade have been the increasing attention given to the problem; the great improvement in the character of the commissions, both special and permanent; the utilization to an ever increasing degree of the expert and of the professional economist; and the evident determination on the part of the various commissions to keep abreast of the best action and of the best thought in the other commonwealths.

It may indeed now be said that the movement for tax reform is *en train*. Never before has so much attention been devoted to it. Never before has there been so intelligent and so vigorous a discussion. Never before has there been manifested such anxiety to deal correctly and yet conservatively with the problem. To this result the annual conferences of the International Tax Association have contributed not a little, and we may expect to witness during the next few years a still more decided evidence of the progress which has now become so marked and so widespread in the United States.

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